IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

RPFC.No. 90 of 2003()

MC.263/2002 of FAMILY COURT, KOZHIKODE

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REVISION PETITIONER/COUNTER PETITIONER

VISWANATHAN, S/O.KUNJAMBU, PALAKKAD
PEROLE, LAKSHMI NIVAS, P.O.NEELESWARAM,
KASARGODE DISTRICT.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS: PETITIONERS

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1. LATHA, D/O.VADAKKEDATH RAMDAS,
PUTHIYANGADI AMSOM DESOM, KOZHIKODE
TALUK.

2. AMALRAJ, 13 YEARS, REPRESENTED BY MOTHER
LATHA, DO. DO.

3. AKHILRAJ, 12 YEARS, REPRESENTED BY
MOTHER LATHA, DO. DO.

4. ASWINRAJ, 8 YEARS, REPRESENTED BY
MOTHER LATHA DO. DO.

BY ADV. SRI.P.V.KUNHIKRISHNAN

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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R.P.(F.C).No.90 of 2003-A

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Dated this the 16th day of October, 2007

O R D E R

The revision petitioner is the respondent/hushand in M.C.No.263/2002 filed under Section 127 Cr.P.C. and the court below ordered maintenance to be enhanced to petitioners 1 to 4 which is disputed herein. As per order in M.C.No.243/1998 it is submitted that maintenance was ordered at the rate of Rs.250/- each as per the terms settled in between. In the instant case the amount of maintenance was enhanced at the rate of Rs.1,000/- to the first petitioner/wife and Rs.750/- each to petitioners 2 to 4, the minor children. It is the contention that the court below has erred in enhancing the amount of maintenance.

2. The evidence adduced in the matter consisted of the testimony of PW.1 the petitioner/wife and RW.1 the respondent/husband respectively.

3. The petitioner/wife had contended that the children are studying in M.E.S Raja Residential School and that she is unable to meet the expenses of the children and herself on the maintenance amount at the rate of Rs.250/- each, which was awarded as per the earlier order in

M.C.No.243/1998 She has alleged that she is not having any means of income and that the respondent is getting a sum of Rs.15,000/- per month from his grocery shop and landed property. She has claimed maintenance at the rate of Rs.2,000/- per month for herself and Rs.1,500/- for the minor children. The children were then studying in Stds.VII, VI & II respectively. The respondent/revision petitioner had alleged that she belonged to a rich family and she owned a fishing boat and other properties and further that she is also working as a staff nurse and is getting an amount of Rs.2,000/- per month as salary and she has an income of Rs.5,000/- from her properties. The court below has noted that RW.1 has admitted that he has rented out three buildings which, according to him, is managed by his father. He has not mentioned about the grocery shop that he is allegedly having. In view of the fact that he has rented out three buildings and he is also running a grocery shop and in the absence of any evidence to show that the petitioner/wife is employed and is having income (PW.1 has testified that she resigned the job at the instance of the respondent/husband, when they were living together), I find that no interference is called for. The revision petition is dismissed.

K.R.UDAYABHANU,
Judge

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